

United States Bankruptcy Court

Northern District Of California

In re <u>Kimberly Cox,</u>)	
Debtor)	Case No. <u>10-61716</u>
)	
<u>Kimberly Cox,</u>)	Chapter <u>7</u>
Plaintiff)	
)	
v.)	
<u>AMERICA'S WHOLESALE LENDER,</u>)	Adv. Proc. No. <u>11-05106</u>
Defendant)	

ENTRY OF DEFAULT

It appears from the record that the following defendant failed to plead or otherwise defend in this case as required by law.

Name:
AMERICA'S WHOLESALE LENDER

Therefore, default is entered against the defendant as authorized by Federal Rule of Bankruptcy Procedure 7055.

Clerk of the Bankruptcy Court

Date

By: _____
Deputy Clerk

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12 **UNITED STATES BANKRUPTCY COURT**
13 **NORTHERN DISTRICT OF CALIFORNIA**

14 In re:
15 KIMBERLY COX
16 Debtor

Case No. 5:10-bk-61716 CN

Chapter 7

17 KIMBERLY COX
18 Plaintiff,
19 vs.

Adv. Proc. No. 5:11-ap-05106

**AFFIDAVIT OR AFFIRMATION OF
TIMOTHY Y. FONG IN SUPPORT
ENTRY OF DEFAULT**

20 RECONTRUST COMPANY, N.A.;
21 MORTGAGE ELECTRONIC REGISTRATION
22 SYSTEMS, INC.; THE BANK OF NEW
23 YORK MELLON FKA THE BANK OF NEW
24 YORK AS TRUSTEE FOR THE BENEFIT
25 OF THE CERTIFICATEHOLDERS CWMBS,
26 INC. CHL MORTGAGE PASS-THROUGH
TRUST 2005-2 MORTGAGE PASS-
THROUGH CERTIFICATES, SERIES
2005-2; AMERICA'S WHOLESALE
LENDER; COUNTRYWIDE HOME LOANS,
INC.; BAC HOME LOANS SERVICING,
LP; does 1-1000; and, all
persons unknown, claiming any
legal or equitable right, title,
estate, lien, or interest in the
property described in the
complaint adverse to Plaintiff's
title,

[Bankruptcy Rule 7055]
[Fed.R.Civ.P. 55(a)]

Defendants.

1 **AFFIDAVIT OR AFFIRMATION**

2 I, Timothy Y. Fong, pursuant to 28 U.S.C. § 1746, declare
3 and affirm the following:

4 1. I am the attorney of record for Plaintiff Kimberly Cox
5 in the above-referenced adversary proceeding.

6 2. The statements set forth are based upon my personal
7 knowledge and are true and correct to the best of my knowledge,
8 information and belief.

9 3. Plaintiff filed the Complaint against the above
10 referenced Defendants on 04/12/2011.

11 4. The Summons was issued by the court on 04/13/2011.

12 5. Defendant AMERICA'S WHOLESALE LENDER¹ was served with
13 the Summons and Complaint on 04/13/2011.

14 6. Pursuant to the Summons, Defendants were required to
15 file a motion or answer the complaint within 30 days after the
16 date of issuance of the summons.

17 _____
18 ¹The purported Defendants' counsel of record filed and
19 served DEFENDANT'S CORPORATE DISCLOSURE STATEMENT PURSUANT TO
20 FED.R.BANKR.P. 7007.1 on 06/03/2011 ("Disclosure Statement").

21 In the Disclosure Statement, Defendants' undersigned
22 counsel of record states "America's Wholesale Lender is a DBA
23 for Countrywide Home Loans, Inc." (See, filed Disclosure
24 Statement p.2 ¶ 4.) This is not the company being sued by
25 Plaintiff.

26 Plaintiff is suing "AMERICA'S WHOLESALE LENDER" "a
CORPORATION organized and existing under the laws of NEW YORK"
("AWL") pursuant to the purported Deed of Trust, which
Defendants rely on in their motion and reply papers identified
as Plaintiff's Complaint Exhibit 8 ¶(C) Bates numbered 10-61716-
0030. Therefore; AWL, the company being sued by Plaintiff, has
failed to appear or respond to Plaintiff's Complaint and has
defaulted.

1 7. AWL did not serve or file an answer to Plaintiff's
2 Complaint within the 30 days after the date of issuance of the
3 Summons pursuant to Bankruptcy Rule 7012 or as ordered in the
4 Summons.

5 8. To the best of my knowledge, information and belief,
6 The Defendant is not: a natural person, minor or incompetent
7 person, nor is it in the military service within the purview of
8 the Servicemembers Civil Relief Act, 50 U.S.C. app. § 501 et
9 seq.

10 I declare under penalty of perjury that the foregoing is
11 true and correct to the best of my knowledge, information and
12 belief.

13 Executed on 06/06/2011

/s/Timothy Y. Fong
Timothy Y. Fong
Attorney for Plaintiff
Kimberly Cox